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*Attorneys for Defendants Marathon Digital  
Holdings, Inc., Merrick Okamoto, Frederick G.  
Thiel, Simeon Salzman, and Hugh J. Gallagher*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

JAIME R. MORENO, Individually and on  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

MARATHON DIGITAL HOLDINGS,  
INC., MERRICK OKAMOTO,  
FREDERICK G. THIEL, SIMEON  
SALZMAN, and HUGH J. GALLAGHER,

Defendants.

Case No: 2:23-cv-00470-RFB-DJA

**STIPULATION AND  
ORDER**

Lead Plaintiff Marathon Investor Group (“**Lead Plaintiff**”) and Defendants  
Marathon Digital Holdings, Inc., Merrick Okamoto, Frederick G. Thiel, Simeon Salzman,  
and Hugh J. Gallagher (collectively, “**Defendants**”), by and through their undersigned  
counsel, hereby stipulate as follows:

1           1.     On March 30, 2023, Jaime R. Moreno, commenced the above-captioned  
2 action (the “**Action**”) and filed the operative, putative class action complaint (the  
3 “**Complaint**”) in the Action. *See* Dkt. No. 1.

4           2.     On May 30, 2023, Marathon Investor Group filed a Motion for Appointment  
5 as Lead Plaintiff and Approval of Counsel. *See* Dkt. No. 16.

6           3.     On June 9, 2023, the Court granted the Parties’ Stipulation and Proposed  
7 Order staying Defendants’ time to answer, move, or otherwise respond to the Complaint  
8 pending the Court’s appointment of a lead plaintiff and lead counsel, and ordered  
9 Defendants to respond to the Complaint within twenty-one (21) days of the Court’s  
10 decision appointing lead plaintiff and approving lead counsel. *See* Dkt. Nos. 22, 27.

11           4.     On March 29, 2024, the Court appointed Marathon Investor Group as Lead  
12 Plaintiff, Pomerantz LLP and the Schall Law Firm as Co-Lead Counsel, and Muehlbauer  
13 Law Office, Ltd. as Liaison Counsel. *See* Dkt. No. 39.

14           5.     The Action is governed by the provisions of the Private Securities Litigation  
15 Reform Act of 1995 (“PSLRA”), 15 U.S.C. § 78u-4 *et seq.*, which provide that discovery  
16 generally shall be stayed during the pendency of any motion to dismiss.

17           IT IS HEREBY STIPULATED AND AGREED, subject to Court approval, by and  
18 among the undersigned counsel that:

19                   (a)   Lead Plaintiff shall file an amended complaint (the “**Amended**  
20 **Complaint**”) on or before June 4, 2024;

21                   (b)   Defendants shall answer or otherwise respond to the Amended  
22 Complaint on or before August 5, 2024;

23                   (c)   If Defendants move to dismiss the Amended Complaint, Lead  
24 Plaintiff shall file any opposition to such motion on or before October 4, 2024; and

25                   (d)   Defendants shall file any reply in support of such motion on or before  
26 November 18, 2024.

1 Dated this 5th day of April, 2024

2 **FLANGAS LAW GROUP**

3 /s/ Kimberly P. Stein

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23 /s/ Andrew R. Muehlbauer

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**ORDER**

IT IS SO ORDERED that:

1. Lead Plaintiff shall file an amended complaint (the “**Amended Complaint**”) on or before June 4, 2024.
2. Defendants shall answer or otherwise respond to the Amended Complaint on or before August 5, 2024;
3. ~~If Defendants move to dismiss the Amended Complaint, Lead Plaintiff shall file any opposition to such motion on or before October 4, 2024 and Defendants shall file any reply in support of such motion on or before November 18, 2024.~~

**IT IS THEREFORE ORDERED** that the parties' stipulation (ECF No. 40) is **granted in part and denied in part**. It is denied in part regarding the parties' request that the undersigned magistrate judge set a briefing schedule for any potential motion to dismiss. Not only is this relief prospective, motions to dismiss must be finally determined by the assigned district judge under 28 U.S.C. 636(b)(1)(a). As a result, the request for an extended briefing schedule for this motion is more appropriately decided by the assigned district judge. The stipulation is granted in all other respects.

  
\_\_\_\_\_  
DANIEL J. ALBREGTS  
UNITED STATES MAGISTRATE JUDGE

DATED: April 9, 2024